REMARKS

In the Office Action ("OA"), the Examiner rejected claims 1-19, 101, 102, and 104 under 35 U.S.C. § 102(b) as anticipated by Lin, U.S. Patent No. 5,721,439 ("Lin"). Before addressing this rejection, Applicants submit that this Office Action is not fully responsive to the Amendment after Final filed on July 29, 2003, which was entered with the filing of a Request for Continued Examination on September 24, 2003.

The M.P.E.P. requires that all Actions on the Merits issued by an Examiner should be complete and clear. *See* M.P.E.P. § 707.07, ed. 8, rev. 1 at 700-97 (Feb. 2003). Furthermore, "[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." M.P.E.P. § 707.07(f) at 700-98.

In the Final Office Action dated April 29, 2003, the Examiner rejected claims 1-19 and 101-103 under 35 U.S.C. § 103(a) as unpatentable over Lin. In the Amendment After Final filed July 29, 2003, Applicant presented arguments that claims 1-19, 101, 102, and 104 were patentable over Lin. Specifically, Applicant argued that claims 1-19, 101, 102, and 104 were patentable over Lin because Lin fails to teach or suggest all the elements of these claims. (July 29th Amendment After Final at § II.) In the current Office Action, the Examiner rejected claims 1-19, 101, 102, and 104 under section 102(b) as anticipated by Lin.

Although the Examiner has rejected these claims under a different section of title 35, the Examiner should have addressed Applicant's arguments advanced in the July 29th Amendment After Final. More particularly, for an anticipation rejection to be proper, the cited reference, Lin, must teach all the claim elements. Thus, Applicant's arguments advanced in the July 29th Amendment After Final that Lin fails to teach or suggest all the elements of claims 1-19, 101, 102, and 104 relates directly to the Examiner's new rejection under section 102(b)

over the same reference. Accordingly, the Examiner should have addressed these arguments in the current Office Action. Since the Examiner did not address these arguments, Applicant submits that the current Office Action is incomplete and improper. As such, the current Office Action should be withdrawn and any subsequent Office Action which rejects any claim should be made non-final.

Nonetheless, Applicant will address the merits of the current Office Action and submits that claims 1-19, 101, 102, and 104 are allowable for at least the reason set forth below.

I. Response to Rejections under 35 U.S.C. § 102(b)

The Examiner rejected claims 1-19, 101, 102, and 104 under section 102(b) as anticipated by Lin. In response, Applicant submits that Lin fails to anticipate claim 1-19, 101, 102, and 104 because Lin fails to teach, expressly or inherently, all the elements of these claims.

In order to properly anticipate Applicant's claimed invention under section 102(b), each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in a single prior art reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131 (quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236 (Fed. Cir. 1989)). Finally, "[t]he elements must be arranged as required by the claim." M.P.E.P. § 2131 at 2100-70.

Claim 1 is directed to an electrostatic discharge device comprising a combination of elements including, *inter alia*, "at least one island formed in the first diffusion region, the at least one island being positioned non-symmetrically about a plane perpendicular to a top surface of the semiconductor layer and perpendicular to the boundary, wherein said plane bisects the channel region." (emphasis added.)

Lin is directed to electrostatic discharge circuitry. Lin discloses that the discharge circuitry comprises a number of isolated islands 81-86 arranged in a diffusion region. *See* Lin, Fig. 8. The Examiner alleged that Lin, in Fig. 5c, 7c, and 8, discloses islands 63-65 and 81-86 are formed being positioned non-symmetrically about a plane perpendicular to a top surface of the semiconductor layer and perpendicular to the boundary, wherein said plane bisects the channel region. (OA at 2.) However, Lin explicitly teaches that islands 81-86 are symmetrically arranged.

Specifically, Lin teaches "islands [81-86] are aligned along the longitudinal direction of the islands themselves, and each isolated island in a row is in relative interleaving relationship with the proximate islands in the neighboring rows at both sides." Lin, col. 5, ll. 52-56. Furthermore, Lin teaches that "all the islands 81-86 are substantially the same size in terms of both width and length ... Lin discloses that "[t]his allows for a symmetric alignment in the interleaving relationship of the isolated islands in the respective rows." Lin, col. 5, ll. 61-64. Moreover, Lin discloses that "the active pitch of the island in each row of islands is equal to about twice the distance between any two neighboring rows, as well as twice the distance between the edge of the gate 80 and the first row of island immediately next to it." Lin, col. 5. l. 65 to col. 6, l. 2.

In other words, islands 81-86 are arranged in a uniform pattern such that islands 81-86 are symmetric about a plane perpendicular to a top surface of the semiconductor layer and perpendicular to diffusion regions, wherein said plane bisects the channel region. A similar pattern is illustrated in Figs. 4b, 4c, 6b, 6c, and 9 of Lin.

Thus, Lin fails to teach or suggest at least "at least one island formed in the first diffusion region, the at least one island being positioned non-symmetrically about a plane

perpendicular to a top surface of the semiconductor layer and perpendicular to the boundary, wherein said plane bisects the channel region," as recited in claim 1. Therefore, Lin fails to anticipate claim 1. For at least this reason, claim 1 is allowable.

Moreover, the Examiner's sole reliance on Figs. 5c, 7c, and 8 of Lin is incorrect. (OA at 2.) Figs. 5c and 7c illustrate cross-sectional views of a semiconductor structure during selected process stages of fabrication. Lin, col. 4, ll. 10-23. However, Figs. 5c and 7c do not illustrate the arrangement of the islands. Further, Fig. 8 illustrates only a portion of a semiconductor structure. For a complete understanding, Fig. 8 must be viewed in light of the description at

col. 5, l. 49 through col. 6, l. 15. As mentioned above, Lin, beginning at col. 5, l. 49, explicitly teaches that islands 81-86 are symmetrically arranged. Thus, Lin fails to teach or suggest at least "at least one island formed in the first diffusion region, the at least one island being positioned non-symmetrically about a plane perpendicular to a top surface of the semiconductor layer and perpendicular to the boundary, wherein said plane bisects the channel region," as recited in claim 1. Therefore, Lin fails to anticipate claim 1. For at least this reason, claim 1 is allowable.

Claims 2-19 and 101 are allowable at least due to their dependence from allowable claim 1.

Moreover, claim 102 recites, *inter alia*, "wherein ... first and second groups include all islands in the first diffusion region and said first and second groups being disposed non-symmetrically about a plane perpendicular to a top surface of the semiconductor layer and parallel to the boundary between the first and second diffusion regions, wherein the plane extends along the contact array." As advanced above, Lin is directed to a discharge protection

device comprising isolated islands disposed in an evenly distributed gridwork. Lin, col. 6, lines 6-13 and Figs. 8 and 9. Thus, Lin discloses that all the islands are symmetrically disposed. Hence, Lin fails to teach all the elements recited in claim 102. Accordingly, Lin fails to anticipate claim 102. For at least this reason, claim 102 is allowable.

Claim 104 is allowable at least due to its dependence from allowable claim 102.

II. Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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